

1 SENATE BILL 502

2 **46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004**

3 INTRODUCED BY

4 Timothy Z. Jennings

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10 AN ACT

11 RELATING TO HEALTH INSURANCE; IMPOSING A HEALTH INSURANCE
12 PREMIUM SURTAX ON CERTAIN INSURANCE PREMIUMS; REQUIRING HEALTH
13 INSURANCE COVERAGE OF AN ALPHA-FETOPROTEIN III SCREENING TEST
14 DURING A WOMAN'S PREGNANCY; REQUIRING HEALTH INSURANCE COVERAGE
15 OF CIRCUMCISIONS OF NEWBORN MALES; RECONCILING CONFLICTING
16 AMENDMENTS TO A CERTAIN SECTION OF THE NMSA 1978; CHANGING THE
17 APPLICABILITY DATE OF CERTAIN PROVISIONS OF THE PREMIUM TAX.

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

20 Section 1. Section 29-13-3 NMSA 1978 (being Laws 1983,
21 Chapter 289, Section 3, as amended) is amended to read:

22 "29-13-3. DISTRIBUTION OF CERTAIN INSURANCE [~~DEPARTMENT~~]
23 DIVISION COLLECTIONS--LAW ENFORCEMENT PROTECTION FUND
24 CREATED.--There is created in the state treasury the "law
25 enforcement protection fund". Ten percent of all money

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1 received for fees, licenses, penalties and taxes from life,
2 general casualty and title insurance business pursuant to the
3 New Mexico Insurance Code, except for money received from the
4 health insurance premium surtax imposed by Subsection C of
5 Section 59A-6-2 NMSA 1978, shall be paid monthly to the state
6 treasurer and [~~by him~~] credited to the fund. On or before June
7 30 of each year, the state treasurer shall transfer to the
8 general fund any balance in the law enforcement protection fund
9 in excess of one hundred thousand dollars (\$100,000) that is
10 not obligated and that is in excess of the amount certified by
11 the division to be distributed from that fund."

12 Section 2. Section 59A-6-2 NMSA 1978 (being Laws 1984,
13 Chapter 127, Section 102, as amended by Laws 2003, Chapter 14,
14 Section 18 and by Laws 2003, Chapter 58, Section 1) is amended
15 to read:

16 "59A-6-2. PREMIUM TAX--HEALTH INSURANCE PREMIUM SURTAX--

17 A. The premium tax provided for in this section
18 shall apply as to the following taxpayers:

19 (1) each insurer authorized to transact
20 insurance in New Mexico;

21 (2) each insurer formerly authorized to
22 transact insurance in New Mexico and receiving premiums on
23 policies remaining in force in New Mexico, except that this
24 provision shall not apply as to an insurer that withdrew from
25 New Mexico prior to March 26, 1955;

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1 (3) each plan operating under provisions of
2 Chapter 59A, Articles 46 through 49 NMSA 1978;

3 (4) each property bondsman, as that person is
4 defined in Section 59A-51-2 NMSA 1978, as to any consideration
5 received as security or surety for a bail bond in connection
6 with a judicial proceeding, which consideration shall be
7 considered "gross premiums" for the purposes of this section;
8 and

9 (5) each unauthorized insurer that has assumed
10 a contract or policy of insurance directly or indirectly from
11 an authorized or formerly authorized insurer and is receiving
12 premiums on such policies remaining in force in New Mexico,
13 except that this provision shall not apply if a ceding insurer
14 continues to pay the tax provided in this section as to such
15 policy or contract.

16 B. Each such taxpayer shall pay in accordance with
17 this subsection [~~three~~] a premium tax of three and three-
18 thousandths percent of the gross premiums and membership and
19 policy fees received by it on insurance or contracts covering
20 risks within this state during the preceding calendar year,
21 less all return premiums, including dividends paid or credited
22 to policyholders or contract holders and premiums received for
23 reinsurance on New Mexico risks.

24 C. In addition to the premium tax imposed pursuant
25 to Subsection B of this section, each taxpayer described in

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1 Subsection A of this section that transacts health insurance in
2 New Mexico or is a plan described in Chapter 59A, Article 46 or
3 47 NMSA 1978 shall pay a health insurance premium surtax of one
4 percent of the gross health insurance premiums and membership
5 and policy fees received by it on health insurance or contracts
6 covering health risks within this state during the preceding
7 calendar year, less all return health insurance premiums,
8 including dividends paid or credited to policyholders or
9 contract holders and health insurance premiums received for
10 reinsurance on New Mexico risks. Except as provided in this
11 section, all references in the Insurance Code to the premium
12 tax shall include both the premium tax and the health insurance
13 premium surtax.

14 D. For each calendar quarter, an estimated payment
15 of the premium tax and the health insurance premium surtax
16 shall be made on April 15, July 15, October 15 and the
17 following January 15. The estimated payments shall be equal to
18 at least one-fourth of either the payment made during the
19 previous calendar year or eighty percent of the actual payment
20 due for the current calendar year, whichever is greater. The
21 final adjustment for payments due for the prior year shall be
22 made with the return, which shall be filed on April 15 of each
23 year, at which time all taxes for that year are due. Dividends
24 paid or credited to policyholders or contract holders and
25 refunds, savings, savings coupons and similar returns or

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1 credits applied or credited to payment of premiums for
2 existing, new or additional insurance shall, in the amount so
3 used, constitute premiums subject to tax under this section for
4 the year in which so applied or credited. ~~[except that:~~

5 ~~(1) as to every insurer that throughout such~~
6 ~~preceding calendar year had at least forty percent of its~~
7 ~~admitted assets invested in New Mexico investments, as the same~~
8 ~~are defined in Subsection C of this section, the rate of such~~
9 ~~tax shall be nine-tenths percent in lieu of three percent; and~~

10 ~~(2) effective January 1, 1992, the rate shall~~
11 ~~be one and four-tenths percent; effective July 1, 1992, the~~
12 ~~rate shall be one and nine-tenths percent; effective January 1,~~
13 ~~1993, the rate shall be two and four-tenths percent; and~~
14 ~~effective July 1, 1993 and thereafter, the rate shall be three~~
15 ~~percent.~~

16 ~~G. New Mexico investments for the purpose of~~
17 ~~Subsection B of this section are defined as follows:~~

18 ~~(1) real estate located within New Mexico;~~

19 ~~(2) bonds or obligations of New Mexico or of~~
20 ~~any county or other subdivision thereof;~~

21 ~~(3) bonds, debentures or secured obligations~~
22 ~~of any corporation that has fifty percent of its assets located~~
23 ~~within New Mexico;~~

24 ~~(4) first mortgages secured by real estate~~
25 ~~located within New Mexico;~~

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1 ~~(5) deposits in state banks, national banks~~
2 ~~and trust companies having their principal place of business~~
3 ~~within New Mexico;~~

4 ~~(6) policy loans to residents of New Mexico;~~
5 and

6 ~~(7) preferred and common stock of corporations~~
7 ~~having at least fifty percent of their assets located within~~
8 ~~New Mexico.~~

9 ~~D. Nothing contained in Subsection C of this~~
10 ~~section shall be construed to affect any provision of Chapter~~
11 ~~59A, Article 9 NMSA 1978.]~~

12 E. Exempted from the [~~tax~~] taxes imposed by
13 [~~Subsection B of~~] this section are:

14 (1) premiums attributable to insurance or
15 contracts purchased by the state or a political subdivision for
16 the state's or political subdivision's active or retired
17 employees; and

18 (2) payments received by a health maintenance
19 organization from the federal secretary of health and human
20 services pursuant to a contract issued under the provisions of
21 42 U.S.C. Section 1395 mm(g)."

22 Section 3. A new section of Chapter 59A, Article 22 NMSA
23 1978 is enacted to read:

24 "[NEW MATERIAL] COVERAGE OF ALPHA-FETOPROTEIN III
25 SCREENING TEST.--An individual or group health insurance

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1 policy, health care plan or certificate of health insurance
2 that is delivered, issued for delivery or renewed in the state
3 shall provide coverage for an alpha-fetoprotein III screening
4 test for pregnant women, generally between sixteen and twenty
5 weeks of pregnancy, to screen for certain genetic abnormalities
6 in the fetus."

7 Section 4. A new section of Chapter 59A, Article 22 NMSA
8 1978 is enacted to read:

9 "[NEW MATERIAL] COVERAGE OF CIRCUMCISION FOR NEWBORN
10 MALES.--An individual or group health insurance policy, health
11 care plan or certificate of health insurance that is delivered,
12 issued for delivery or renewed in the state shall provide
13 coverage for circumcision for newborn males."

14 Section 5. A new section of Chapter 59A, Article 23 NMSA
15 1978 is enacted to read:

16 "[NEW MATERIAL] COVERAGE OF ALPHA-FETOPROTEIN III
17 SCREENING TEST.--A blanket or group health policy, health care
18 plan or certificate of health insurance that is delivered,
19 issued for delivery or renewed in the state shall provide
20 coverage for an alpha-fetoprotein III screening test for
21 pregnant women, generally between sixteen and twenty weeks of
22 pregnancy, to screen for certain genetic abnormalities in the
23 fetus."

24 Section 6. A new section of Chapter 59A, Article 23 NMSA
25 1978 is enacted to read:

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1 "[NEW MATERIAL] COVERAGE OF CIRCUMCISION FOR NEWBORN
2 MALES.--A blanket or group health insurance policy, health care
3 plan or certificate of health insurance that is delivered,
4 issued for delivery or renewed in the state shall provide
5 coverage for circumcision for newborn males."

6 Section 7. A new section of the Health Maintenance
7 Organization Law is enacted to read:

8 "[NEW MATERIAL] COVERAGE OF ALPHA-FETOPROTEIN III
9 SCREENING TEST.--An individual or group health maintenance
10 organization policy, health care plan or certificate of health
11 insurance that is delivered, issued for delivery or renewed in
12 the state shall provide coverage for an alpha-fetoprotein III
13 screening test for pregnant women, generally between sixteen
14 and twenty weeks of pregnancy, to screen for certain genetic
15 abnormalities in the fetus."

16 Section 8. A new section of the Health Maintenance
17 Organization Law is enacted to read:

18 "[NEW MATERIAL] COVERAGE OF CIRCUMCISION FOR NEWBORN
19 MALES.--An individual or group health maintenance organization
20 policy, health care plan or certificate of health insurance
21 that is delivered, issued for delivery or renewed in the state
22 shall provide coverage for circumcision for newborn males."

23 Section 9. A new section of the Nonprofit Health Care
24 Plan Law is enacted to read:

25 "[NEW MATERIAL] COVERAGE OF ALPHA-FETOPROTEIN III

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1 SCREENING TEST.--An individual or group health insurance
2 policy, health care plan or certificate of health insurance
3 that is delivered, issued for delivery or renewed in the state
4 shall provide coverage for an alpha-fetoprotein III screening
5 test for pregnant women, generally between sixteen and twenty
6 weeks of pregnancy, to screen for certain genetic abnormalities
7 in the fetus."

8 Section 10. A new section of the Nonprofit Health Care
9 Plan Law is enacted to read:

10 "[NEW MATERIAL] COVERAGE OF CIRCUMCISION FOR NEWBORN
11 MALES.--An individual or group health insurance policy, health
12 care plan or certificate of health insurance that is delivered,
13 issued for delivery or renewed in the state shall provide
14 coverage for circumcision for newborn males."

15 Section 11. Laws 2003, Chapter 58, Section 3 is amended
16 to read:

17 "Section 3. APPLICABILITY.--The provisions of [~~this act~~]
18 Laws 2003, Chapter 58, Section 1 apply to premiums received in
19 the 2003 and subsequent calendar years; provided, however, that
20 with respect to premiums received prior to March 20, 2003, the
21 provisions of Subsection E of Section 59A-6-2 NMSA 1978 in
22 effect prior to the effective date of Laws 2003, Chapter 58,
23 Section 1 shall be applicable."

24 Section 12. APPLICABILITY.--

25 A. Unless an earlier surtax payment is required by

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1 the operation of Subsection B of this section, the health
2 insurance premium surtax imposed by Section 2 of this act is
3 applicable to all health insurance premiums and membership and
4 policy fees received on or after October 1, 2004.

5 B. The health insurance premium surtax imposed by
6 Section 2 of this act is also applicable to all health
7 insurance premiums and membership and policy fees received for
8 contracts issued or renewed on or after July 1, 2004.

9 Section 13. EFFECTIVE DATE.--The effective date of the
10 provisions of this act is July 1, 2004.